

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

**This Document Relates to:**

**Pamela Kilty v. Weyerhaeuser Company, et al.  
Scott Spatz v. Weyerhaeuser Company, et al.**

**CASE NO. 3:16-CV-000515  
CASE NO. 3:16-CV-000726**

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**WEYERHAEUSER COMPANY’S ITEMIZED CLAIM FOR COSTS AND  
REASONABLE FEES SUBMITTED PURSUANT TO  
THE COURT’S MARCH 7, 2018 ORDER**

Pursuant to the Court’s March 7, 2018 Order in the above captioned cases, Defendant Weyerhaeuser Company, by and through its attorneys, Forman Watkins & Krutz LLP, submits the following in support of its Claim for Costs and Reasonable Fees incurred in opposing Plaintiffs’ motions for leave to depose Mr. Reno and Mr. Luther outside of discovery.

On March 7, 2018 this Court entered an order stating that “Defendants may have until March 14, 2018 to submit an itemized claim for reasonable costs and fees incurred in opposing plaintiffs' motions” to depose Mr. Reno and Mr. Luther. (Dkt. 199- *Kilty*; Dkt. 151-*Spatz*.) The Court awarded Defendants these sanctions pursuant to Federal Rule of Civil Procedure 37 because Plaintiffs “did not properly disclose the identities of these two witnesses to defendants in a fair, timely or useable fashion,” but instead “waited until the last minute to attempt to squeeze in these depositions” in violation of “the preliminary pretrial conference order in each case and [] this court's December 22, 2017 text-only order.”

**BACKGROUND**

“Under the federal rules, Rule 37 sanctions may include an order to pay the amount of the reasonable expenses incurred in making the motion for sanctions, including attorney's fees.”

*Houston v. C.G. Sec. Services, Inc.*, 820 F.3d 855, 859 (7th Cir. 2016). The “starting point in a

district court's evaluation of a fee petition is a lodestar analysis; that is, a computation of the reasonable hours expended multiplied by a reasonable hourly rate.” *Id.* (internal citations omitted) (affirming an award of attorney’s fees based on counsel’s standard hourly rate and considering counsel’s years of experience).

As discussed in Weyerhaeuser’s Response to Plaintiffs’ Motion for Leave, Weyerhaeuser attempted to resolve the issues surrounding Plaintiffs’ untimely disclosure of witnesses for months prior to the date Plaintiffs filed their Motions. (*See* Dkt. 197- *Kilty*; Dkt. 149-*Spatz* ). Despite Defendants’ efforts and this Court’s December 22, 2017 order, Plaintiffs were unwilling to do so and instead engaged in motion practice. *See id.* On February 28, 2018, Plaintiffs filed their Motions for Leave to depose their late disclosed witnesses. (Dkt. 192- *Kilty*; Dkt. 144-*Spatz*). In response, Weyerhaeuser drafted and filed its opposition on March 7, 2018. The standard hourly billing rate for the attorneys involved in drafting Weyerhaeuser’s response in opposition are \$215 (associate) and \$300 (partner).

### ITEMIZATION OF FEES

The following fees were incurred in opposing Plaintiffs’ motions to depose the untimely disclosed witnesses after the close of discovery in both the *Herbert Spatz* and the *Elvira Kilty* matters:

Date	Billed By	Hours	Fee	Description
3/4/2018	Associate	3.8	\$817.00	Draft and revise response in opposition to plaintiff's motion to depose Richard Luther and Charles Reno after close of discovery in Spatz and Kilty matters, including drafting statement of facts after reviewing correspondence with plaintiff's counsel and factual assertions in plaintiffs' motions
3/5/2018	Partner	1.6	\$480.00	Edit and revise opposition to plaintiffs' motion to take Luther and Reno depositions

3/5/2018	Associate	3.2	\$688.00	Research Seventh Circuit case law regarding initial disclosures and untimely disclosure of witnesses for further revisions to response in opposition to plaintiff's motion to depose Richard Luther and Charles Reno after close of discovery in Spatz and Kilty matters
3/6/2018	Partner	0.8	\$240.00	Edit opposition to plaintiff's motion for discovery extension to depose untimely disclosed witnesses Richard Luther and Charles Reno
3/6/2018	Associate	2.6	\$559.00	Finalize response and supporting exhibits to opposition to plaintiff's motion to depose Richard Luther and Charles Reno after close of discovery in Spatz and Kilty matters
	Costs			No claim for costs is being submitted
<b>TOTAL</b>		<b>12</b>	<b>\$2,784.00</b>	

Accordingly, Weyerhaeuser requests that the Court grant fees as itemized above pursuant to its March 7, 2018 order and provide any other relief it deems necessary.

Respectfully submitted this, the 14<sup>th</sup> day of March, 2018.

By: /s/ Tanya D. Ellis

Tanya D. Ellis

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**CERTIFICATE OF SERVICE**

I certify that on March 14, 2018, these papers were filed with the Clerk of the Court for the United States District Court for the Western District of Wisconsin using the CM/ECF system, which will send notification of such filing upon all parties who have appeared.

/s/ Tanya D. Ellis  
Tanya D. Ellis